

Amendment No. 1 to HB1869

**Lamberth
Signature of Sponsor**

AMEND Senate Bill No. 1757*

House Bill No. 1869

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by adding the following as a new section:

40-6-109.

(a) As used in this section:

(1) "Cellular telephone" means a wireless telephone authorized by the federal communications commission to operate in the frequency bandwidth reserved for cellular radio telephones;

(2) "Cellular telephone data" means any data that is stored in a cellular telephone including telephone numbers, addresses, pictures, documents, texts, videos, music and any other information that is stored in a cellular telephone; and

(3) "Law enforcement officer" means any person authorized to effectuate an arrest who is employed by the state, or a county municipality or metropolitan form of government.

(b) No law enforcement officer shall search, examine, extract or duplicate any cellular telephone data, even if incident to a lawful arrest, unless:

(1) The officer has obtained a search warrant issued pursuant to this part or Rule 41 of the Tennessee rules of criminal procedure;

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(2) The owner of the cellular telephone or the person in possession of the cellular telephone at the time it is seized gives the officer informed consent for the officer to search the cellular telephone; or

(3) Exigent circumstances exist at the time of the seizure requiring the officer to search the cellular telephone.

(c) No cellular telephone data that is obtained in violation of this section may be used in any court of law or administrative board as evidence, nor may other evidence that is derived from the illegally obtained data be used as evidence in any such proceeding.

(d) This section shall not apply to any cellular telephone that, at the time of its seizure or discovery, has been abandoned by the owner or person responsible for its abandonment.

SECTION 2 . This act shall take effect July 1, 2014, the public welfare requiring it.